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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 GREGORY TYREE BROWN,

8 Plaintiff,

9 v.

10 ELDON VAIL, et al,

11 Defendants.

NO. 2:15-CV-0121-TOR

ORDER GRANTING PLAINTIFF'S
MOTION TO SUBSTITUTE PARTIES

12
13 BEFORE THE COURT is Plaintiff's Motion to Substitute Parties. ECF No.
14 51. This matter was submitted for consideration without oral argument. The Court
15 has reviewed the record and files herein, and is fully informed. For the reasons
16 discussed below, Plaintiff's Motion to Substitute Parties (ECF No. 51) is
17 **GRANTED.**

18 **BACKGROUND**

19 On August 3, 2015, Plaintiff Gregory Tyree Brown, a *pro se* prisoner
20 currently housed at the Clallam Bay Corrections Center, filed his First Amended

1 Complaint. ECF No. 5. Plaintiff alleged that Defendants violated his federal and
2 state constitutional rights when they confiscated and destroyed 55 of his personal
3 photographs. *Id.*

4 On March 31, 2016, this Court granted Defendants' Motion to Dismiss and
5 dismissed Plaintiff's First Amended Complaint. ECF No. 26. On March 1, 2018,
6 the Ninth Circuit vacated the dismissal of Plaintiff's action and remanded to this
7 Court. ECF No. 36. By Mandate, the Ninth Circuit's judgment took effect on
8 March 23, 2018. ECF No. 45.

9 On June 6, 2018, Plaintiff filed the instant motion to substitute parties. ECF
10 No. 51.

11 **DISCUSSION**

12 Plaintiff requests the Court substitute Defendants Eldon Vail and Bernard
13 Warner in their official capacities with the current Secretary of Department of
14 Corrections (DOC), Stephen Sinclair. *Id.* at 1. Plaintiffs also request that his
15 claims against Defendants Vail and Warner remain in their individual capacities.
16 *Id.* at 2.

17 Defendants respond that under Federal Rule of Civil Procedure 25(d), when
18 a public officer leaves during the pendency of an action, the officer's successor is
19 automatically substituted as a party. ECF No. 52 at 2; Fed. R. Civ. P. 25(d).
20 Defendants note that Defendants Vail and Warner are both former DOC

1 Secretaries. ECF No. 52 at 2. Mr. Sinclair became the DOC Secretary in 2017.
2 *Id.* Defendants then agree that Defendants Vail and Warner are replaced by Mr.
3 Sinclair in his official capacity. *Id.*

4 The Court finds that Defendants Vail and Warner are automatically
5 substituted in their official capacities by the current DOC Secretary. *See* Fed. R.
6 Civ. P. 25(d). As the parties agree, the Court determines that Defendants Vail and
7 Warner are replaced by Mr. Sinclair in his official capacity as the DOC Secretary.
8 The Court notes that Plaintiff's claims against Defendants Vail and Warner in their
9 individual capacities remain.

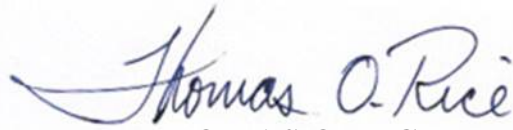
10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

11 Plaintiff's Motion to Substitute Parties (ECF No. 51) is **GRANTED**.

12 The District Court Executive is directed to enter this Order, furnish copies to
13 the parties, and adjust the docket accordingly.

14 **DATED** June 29, 2018.




THOMAS O. RICE
Chief United States District Judge